

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on February 14, 2001 at 3 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. Tom Dell (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Jim Shockley (R)
Rep. James Whitaker (R)

Members Excused: None.

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 510, 2/11/2001
Executive Action: HB 482, HB 484

EXECUTIVE ACTION ON HB 482

REP. KIM GILLAN, HD 11, Billings, addressed the committee regarding her unsigned fiscal note on HB 482, a bill to use a portion of the tobacco settlement trust funds to provide funding for the administration and participation in national clinical drug trials of Montanans who are cancer patients. The bill did not provide for using general fund money but would establish, from the tobacco settlement trust money, a trust within a trust; and the interest from the \$2 million set aside would generate the money to fund the cancer drug trials. She recognizes that there are many demands upon the tobacco trust funds; however, the fiscal note is bold and she feels that it oversteps legislative authority. It says that "the bill anticipates expending from the interest and earnings on the Montana tobacco settlement trust fund. However, revenues from the trust interest are currently fully expended in the executive budget and this fiscal note assumes the bill would need to be funded from general fund." She said this is an assumption that whoever crafted the fiscal note really is not in a position to make. The legislature makes the final decisions on how those funds will be spent, and they have not yet taken final action. It was fairly presumptuous of them to set the general fund as the default supplier, and that was never her intention. She asked the committee to consider passing the bill and see how it fares on the House floor, and the Appropriations Committee can then consider it with other bills requesting tobacco settlement funds.

Rep. Brown said he agrees with Rep. Gillan that the fiscal division should not be making those decisions. **EXHIBIT (huh37a01) {Tape : 1; Side : A; Approx. Time Counter : 0 - 6}**

Motion: **REP. SCHMIDT** moved that **HB 482 DO PASS. {Tape : 1; Side : A; Approx. Time Counter : 6 - 6.5}**

Discussion: **Rep. Dell** said the committee has had a lot of these bills that are relying on tobacco settlement trust fund money. He thinks this bill is a worthy use of some of the money, and he would like to see it included on the list of considerations. **Rep. Facey** would like the legislature as a whole to have a good discussion of where the tobacco money is going to, and he would like to keep this bill alive. **Rep. Esp** said that if this committee was going to prioritize things, it would make sense to save the similar kinds of bills until right before they had to be acted upon, and act on them all at once and prioritize them, rather than acting on them one at a time. **Chairman Thomas** said the committee is to act on the concept of the bills. **Rep. Fuchs** said that unless you have a fiscal note, you almost have to act on the policy of a particular bill. Copies of the fiscal note were distributed, and **Rep. Gillan** again addressed the committee regarding the fiscal note and repeated her earlier comments. This bill does not have to meet the transmittal

deadline since it is an appropriations bill, so the committee could hold action until they were ready to deal with other tobacco money bills. *{Tape : 1; Side : A; Approx. Time Counter : 6.5 - 14.9}*

Motion/Vote: REP. RIPLEY moved that HB 482 BE TABLED. Motion failed 9-9 with Brown, Esp, Fuchs, Noennig, Rice, Ripley, Shockley, Thomas, and Whitaker voting aye. *{Tape : 1; Side : A; Approx. Time Counter : 14.9 - 15.2}*

Motion/Vote: REP. FACEY moved to POSTPONE CONSIDERATION OF HB 482. Motion carried 15-2 with Himmelberger and Lee voting no. *{Tape : 1; Side : A; Approx. Time Counter : 15.2 - 18.3}*

EXECUTIVE ACTION ON HB 484

Motion: REP. LEE moved that HB 484 DO PASS. *{Tape : 1; Side : A; Approx. Time Counter : 18.3 - 19.3}*

Motion/Vote: REP. LEE moved that HB 484 BE AMENDED. Motion carried unanimously, 18-0.

Motion: REP. LEE moved that HB 484 DO PASS AS AMENDED. *{Tape : 1; Side : A; Approx. Time Counter : 19.3 - 20}*

Discussion: Rep. Facey spoke in favor of the bill as amended. The people had strongly supported the initiative, and if this bill isn't passed, the initiative process could be used again. The bill delays action for two years, till FY 2004. This gives the legislature more control over the process and the money than the initiative process would. The voters spoke, and they want this tobacco money to be used for health-related types of situations, and this bill does that.

Rep. Fuchs spoke against the bill. He subscribes to the people that are on the other side of this that have subsidized smokers of Montana far beyond the 25 years that we're going to get this money, and that subsidization has taken away from education and roads and all the other things that we fund; and there are those people who say 100 percent is not the right amount. He thinks it would be expensive for us to put this on. *{Tape : 1; Side : A; Approx. Time Counter : 20 - 22.5}*

Rep. Brown thinks Rep. Hurdle's intentions are good, but the committee had voted earlier to table essentially the same bill, and now instead of making a decision on it ourselves, we want to put it on the ballot and he doesn't agree with that. We are here to represent the people. Many people's taxes went up because of

smoking, and they had increased premiums on their health insurance. The way this bill is set up, the money can't be spent on anything we're doing now, it has to be new spending. The governor's budget has about \$48 million in extra spending for DPHHS. If we leave this money in the general fund, it will go to DPHHS anyway and can be used on a three to one match for medicaid, and that's where he'd like to see the money go. He'd like to see this bill tabled.

Rep. Lee spoke in support of the bill, because she thinks it is never wrong to put something before the electors. Maybe we should create an initiative to where the tobacco trust fund money would be used to offset property taxes. As for the money going to DPHHS, they are notorious for the amount of bureaucracy they have, and at least this way we say where the funds will go without feeding that bureaucracy. **Rep. Raser** agreed, saying that this is public money and the people want it spent for health services.

Rep. Schmidt said Montana has allocated less for prevention than other states, and this bill bumps it up a little bit. The Governor's Advisory Council for Tobacco Use Prevention has barely started their work and the governor's budget has cut back their \$7 million to only \$1 million. Their work needs to continue. The intent of the tobacco money is for prevention and education programs and that's what the people expect to happen. She doesn't have a problem with it going on the ballot and encourages support for the bill. *{Tape : 1; Side : A; Approx. Time Counter : 22.5 - 30}*

Rep. Noennig said he liked the idea of directing a substantial portion of the money to health care. He had studied the language in the tobacco settlement agreement, and it did not say that all the money had to go to health care. There were two theories on this, one that tobacco causes health problems so it has to go to fix them, and the other that the states, as plaintiffs in the suit, were to be compensated for what they lost, which was the money spent on medicare and medicaid. Theoretically, that could go back to the taxpayers.

Mr. Niss presented a new set of amendments to the bill which supersede the amendments already passed by the committee.

Substitute Motion: **REP. NOENNIG** made a substitute motion that **HB 484 BE AMENDED with the two sets of amendments dated February 14, 2001, and that the February 7, 2001 amendments that had previously been passed be repealed.**

Discussion: **Rep. Himmelberger** said it appeared that there would be a fair amount of work that had to be done to the bill, and he wondered if it would be appropriate to postpone action until after the hearing on today's bill.

Substitute Motion: REP. HIMMELBERGER moved to POSTPONE ACTION ON HB 484.

Substitute Motion/Vote: REP. FUCHS moved that HB 484 BE TABLED. Motion carried 15-3 with Facey, Lee, and Raser voting no. {Tape : 1; Side : B; Approx. Time Counter : 0 - 9.5}

HEARING ON HB 510

Sponsor: REP. BOB LAWSON, HD 80, Whitefish

Proponents: Maggie Bullock, Dir., Dev. Disabilities Prog., DPHHS
Colleen Nichols, Helena
Kelly Sheridan, Helena
Jan Donaldson, Helena
Randy Thomas, Billings
Dr. Mary Anne Guggenheim, Helena
Marlene Pazziola, Butte
Riki Nichols, Helena
Vicki Lafond-Smith, Helena
Laleta Huffman, Helena
Annette Beckham, Mgr., Cloverdale Group Home,
Missoula
Dr. Elizabeth Gunderson, Helena
Paul Smetana, Helena
Mary LaFond, Helena
Darrell Stipich, Helena
Margaret Ulvestad, Helena
Lance Melton, Mt. School Boards Assn.

Opponents: Inga Nelson, MEA-MFT
Lorena Erickson, Board of Nursing
Vickie Badgley, Board of Nursing

Opening Statement by Sponsor:

REP. BOB LAWSON, HD 80, Whitefish said that HB 510 is an act providing that provision of nutrition, inclusive of supplements and prescribed medications, through a gastrostomy tube (g-tube) or a jejunostomy tube (j-tube) is not within the scope of the practice of nursing. We're talking about excluding something from the practice of nursing. The meat of the bill is on page 2, section (1)(k). It would allow the provision of nutrition to be administered through a g-tube or a j-tube by a parent, guardian, foster parent, surrogate parent, other family member, or individual, regardless of compensation, who is authorized and trained by the individual receiving the nutrition or by a parent,

guardian, foster parent, surrogate parent, or other adult family member. The exemption doesn't apply to provision of nutrition in a licensed facility that provides skilled nursing care. The bill allows something to take place between agreeing participants, and it doesn't force anybody to do anything. He said he has served on the Developmental Disabilities Planning and Advisory Council, working with the developmentally disabled, which is one of the reasons he carried this bill. As a retired school teacher and administrator, he had wondered if the bill would negatively force schools to do something, but he is now very comfortable that it doesn't force anybody to do anything. He thinks that this exemption to the scope of the practice of nursing is desirable, because his main goal is to improve and enhance the quality of life of parents, families and those individuals who are g and j-tube fed. **{Tape : 1; Side : B; Approx. Time Counter : 9.5 - 14.1}**

Proponents' Testimony:

Maggie Bullock, Director, Developmental Disabilities Program, Dept. of Public Health and Human Services, said she is representing DPHHS today. For many years, before the department got involved in this effort, parents and adults with severe disabilities who had g or j-tubes had wanted to be able to do the feeding on their own or to appoint somebody rather than always having to request that a nurse tube-feed the child or themselves. A year and a half ago, the DD program went with parents to the Board of Nursing and requested that this function be delegated, that is, that a nurse could delegate the function to somebody else after training that individual to do the tube feeding. The Board of Nursing changed their rules to allow for that. Last year, the DD program found through listening to parents and other adults, and through a survey, that the delegation of authority wasn't working. Nurses did not want to delegate the function, because they were concerned about liability and other issues. They found out through the survey that it's very important to parents of children with severe disabilities to know that they can arrange for the tube feeding of their child if they aren't available. Many of the parents train the nurses, because many nurses aren't familiar with the tube feeding process. Passing this bill is a good thing; it is the right thing to do for parents and for adults with disabilities who require tube feeding. DPHHS supports the bill because it will restore to parents and individuals who require this the right and responsibility to do this and will enhance their quality of life. It also will cut down on medical expenses. **{Tape : 1; Side : B; Approx. Time Counter : 14.1 - 20.6}**

Colleen Nichols, Helena, parent of an adult son who requires tube feeding, supports the bill. **EXHIBIT(huh37a03) {Tape : 1; Side : B; Approx. Time Counter : 20.6 - 21}**

Kelly Sheridan, Helena, a special needs teacher and respite care provider for a person who requires tube feeding, supports the bill. **EXHIBIT (huh37a02) {Tape : 1; Side : B; Approx. Time Counter : 21 - 23}**

Jan Donaldson, Helena, registered nurse, said she has worked with families who have children with complex chronic health care problems and special personal needs for over 15 years and she strongly supports this bill. Ideally, our social services systems would provide more adequate resources to families who have complex children. As a nurse, she understands some of the concern about taking away nursing duties and choosing other personnel to do things that might put a patient in danger, but she doesn't feel that tube feeding meets these criteria. Other health care professionals can be trained very adequately to tube feed both children and adults who have these difficult problems. **{Tape : 1; Side : B; Approx. Time Counter : 23 - 27.9}**

Randy Thomas, Billings, spoke on behalf of his 18-year-old daughter, who is tube fed, in support of the bill. **{Tape : 1; Side : B; Approx. Time Counter : 27.9 - 30}**

Dr. Mary Anne Guggenheim, Helena physician, strongly endorses the bill. She first saw the g and j-tubes used in the late 1960's and saw their evolution over the years to the present. There are three "s" words that she thinks crystallize the issues. The first is "scary." The idea of a tube that goes into your stomach, or your jejunum, the part of the small intestine that follows the stomach, and putting stuff directly into there, is scary. It shouldn't be scary, because the other two words are "safe" and "simple." It is easy to do, and it makes sense for parents, brothers, sisters, other relatives and trusted people to be able to do it rather than make it complicated. **{Tape : 2; Side : A; Approx. Time Counter : 0 - 3.1}**

Marlene Pazziola, Butte, said she cares for her 37-year-old son, who has been tube fed for 37 years. It is such a simple procedure that his siblings used to feed him, and now their children help feed him. He attends a day program where they have an LPN to do his feedings, and she trained other staff to feed him. She also has a respite care giver who feeds her son when she is away. She hopes this bill will pass. **{Tape : 2; Side : A; Approx. Time Counter : 3.1 - 5}**

Riki Nichols, Helena, is the sister and co-guardian of Nathan, whose mother Colleen had testified previously. She works for Family Outreach of the Mt. Independent Living Project to provide respite and personal care for Nathan. Because of the way the g-tube feeding rule is currently written, while she is being paid to take care of

Nathan, she can't tube feed him. It defeats the purpose of respite care if her parents have to go home to feed him while she is caring for him. Although she is a nursing student and has the highest respect and regard for nurses, she feels that her family has the ability to make the decision as to who can provide g-tube feeding assistance for Nathan. She urges support for the bill. **{Tape : 2; Side : A; Approx. Time Counter : 5 - 6.8}**

Vicki LaFond-Smith, Helena, whose son is fed through a g-tube, supports the bill and presented her written testimony as well as other letters of support. **EXHIBIT(huh37a04) EXHIBIT(huh37a05) EXHIBIT(huh37a06) EXHIBIT(huh37a07) EXHIBIT(huh37a08) EXHIBIT(huh37a09) EXHIBIT(huh37a10) EXHIBIT(huh37a11)** EXHIBIT 12 was a conceptual amendment and was not drafted-therefore there is no exhibit 12. **{Tape : 2; Side : A; Approx. Time Counter : 6.8 - 15.3}**

Laleta Huffman, Helena, is employed by Family Outreach as a habilitation trainer and respite worker, and has worked with children with g-tubes at school and in their homes. Parents try to make their homes as normal as possible for these children. Most of them have a live-in helper or respite workers, who become an extended part of the family. G-tube feeding can be intimidating at first, but it is a simple procedure. Most people would rather be fed by someone they knew than by a stranger. **{Tape : 2; Side : A; Approx. Time Counter : 15.3 - 17.4}**

Annette Beckham, Missoula, Manager, Cloverdale Group Home, said the home, which is operated by Opportunity Resources, serves adults with physical difficulties and traumatic brain injuries. The staff have been trained by a nurse to assist one resident with his daily tube feedings. It's a simple procedure that is quick and easy to learn. She supports the bill and urges its passage. **{Tape : 2; Side : A; Approx. Time Counter : 17.4 - 18.7}**

Dr. Elizabeth Gunderson, Helena, has been a pediatrician for 25 years and said the pediatricians of Montana do support this bill. **{Tape : 2; Side : A; Approx. Time Counter : 18.7 - 19}**

Paul Smetana, Helena, said his 10-year-old son is fed through a g-tube, and his parents, brother and sister can assist with it. He would like to have the opportunity to choose who is the best care giver for his son, and urges support of the bill. **{Tape : 2; Side : A; Approx. Time Counter : 19 - 20}**

Mary LaFond, Helena, the grandmother of a tube-fed grandson, urges support of the bill to allow families such as her daughter's the privacy and the freedom to choose those whom they would like to g-

tube feed their family members. Once the concept of g-tube feeding is understood, it is a simple process. **{Tape : 2; Side : A; Approx. Time Counter : 20 - 22.9}**

Darrell Stipich, Helena, said his stepson has been fed through a g-tube since 1995, and he supports the bill. **{Tape : 2; Side : A; Approx. Time Counter : 22.9 - 24}**

Margaret Ulvestad, Helena, works with Family Outreach as a family support specialist, and has seen the frustration of families of g-tube patients when they are often called upon to train and fill in for nurses at school and in the hospital to feed their child, yet they are not allowed to choose and train and compensate people who are familiar with their child to do the feeding. This limits their lives, both financially and personally. She believes this bill is a simple and just remedy, and she urges support of its passage. **{Tape : 2; Side : A; Approx. Time Counter : 24 - 25.4}**

Lance Melton, Mt. School Boards Assn., previously was the attorney for the Board of Nursing so has looked at both sides of this issue. MSBA supports the bill. Many of their members have nursing staff in the schools, and they will still be used to supervise this process if the bill passes. In many Montana school districts, nursing coverage is not available, and it is difficult to have to tell parents that their children can only receive sustenance when a nurse is available to give it. **{Tape : 2; Side : A; Approx. Time Counter : 25.4 - 26.7}**

Opponents' Testimony:

Inga Nelson, MEA-MFT, spoke on behalf of the school nurses that they represent. They are concerned with teachers and aides being responsible for tube feeding. They are aware that often in schools with no school nurse, this responsibility currently falls on other school personnel; however, neither teachers, aides nor school nurses are comfortable with the additional implied responsibility this bill imposes upon them. They feel that in schools that are served by a nurse, that nurse should be responsible for the tube feeding. If a nurse isn't available or is in the school less often than a child needs to be fed, current law and administrative rule allows for the school nurse to delegate this responsibility. They proposed an amendment to the bill, which is also supported by Kathy Boutilier, president of the Mt. School Nurses' Assn. **EXHIBIT (huh37a13) {Tape : 2; Side : A; Approx. Time Counter : 26.7 - 29.7}**

Lorena Erickson, Board of Nursing, presented the Board's written testimony and her personal testimony in opposition to the bill.

EXHIBIT(huh37a14) EXHIBIT(huh37a15){Tape : 2; Side : B; Approx. Time Counter : 0 - 5}

Vickie Badgley, Board of Nursing, submitted written testimony in opposition to the bill. **EXHIBIT(huh37a16){Tape : 2; Side : B; Approx. Time Counter : 5 - 9.5}**

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Raser asked **Dr. Guggenheim** to explain the procedures in the use of the feeding tube. She explained the evolution of the tube and the techniques for its use. **Rep. Shockley** asked if **Dr. Guggenheim** knew any physicians who have expressed the opinion that this shouldn't be something that could be done by a well-trained layman, and she said she didn't know of any and that it had been discussed last fall at a statewide meeting of pediatricians.

Rep. Newman asked **Maggie Bullock** if she knew what was done in other states regarding this kind of feeding. **Ms. Bullock** said she knows that there are other states that do allow for just exactly what we are requesting. She couldn't provide the names right now, but would get that information to the committee.

Rep. Dell asked **Jan Donaldson** to respond from an R.N.'s perspective to some of the comments of the nurses who expressed concerns with lay people doing the feeding. She said she would be responding only for herself, not for any other group of R.N.s. The crucial points for her would be that this is not as complex a procedure as many might be in the nursing profession. She has never known of a family who has ever chosen anything less than the most appropriate care for their kids when it was available. None of these families were trying to save money or cheat on their kids' quality of care in any way. Their lives are complicated enough as it is, and this is one small way that we can provide a measure of respite.

Rep. Dell asked **Dr. Guggenheim** to respond to the list of concerns that the R.N.s had shared in opposition to the bill, and the possible problems that might occur that lay people might not have the knowledge base for and might not be able to address with this feeding. **Dr. Guggenheim** said that now and then a tube does come out or leaks a little bit, and it's irritating to the skin if it leaks. She's known families who had a spare tube and put it back in, or they would go to their family doctor or surgeon and have it put back in. For the first few weeks after the tube is inserted and while it is healing, it has to be handled carefully. Another concern the nurses had expressed was looking for signs and symptoms

of infections. The only infections she has seen were in the initial post-op phase, when you see swelling and redness on the skin, and once in awhile that requires some specific treatment. Once it has healed, you have a track that gets you from the inside of the stomach to the outside of the body. Sometimes there is scar tissue that overbuilds and could overgrow the track, so it could take a little extra probe to get the tube back in if it has come out. As far as signs and symptoms of blockage, if the fluid won't drain in, then the tube is blocked and a new tube has to be inserted. If vomiting occurred, it would likely be because you are feeding too fast or too much, and there would be a danger of aspiration, but that would be less of a danger to the child than before they had the tube placed. If there were any signs of infection, regurgitation, or any of the other problems raised by the nurses, the child would be taken to a health care professional.

Rep. Noennig asked **Lance Melton** if he could answer a question about one of the regulations, 8-32-1709, which has an allowance for delegation of tasks by nurses, including the administration of a g-tube feeding by way of a non-acute, well-healed, patent, insertion site older than two months. He wondered if that language covers what we're talking about. **Mr. Melton** said it does. The process of delegation is articulated in those rules. It's a little bit different than what this bill says. Delegation requires continued involvement of a nurse. **Rep. Noennig** asked if the problem for these people who are talking about not being able to do this without a nurse present is apparently that nurses are not willing to follow this opportunity in the regulations and delegate that responsibility to perform that procedure to these people; and if that is the problem, could he explain why. **Mr. Melton** said at the time he helped draft the rules in the mid-1990's, one of the big concerns expressed by nurses was that the requirements were imposed so heavily so that any nurse who would ever delegate a task, if anything ever went wrong, no matter what the nurse did or did not do in overseeing it, the nurse's license would be on the line. At the School Boards' Assn., he saw the other side, which was school boards asking nurses if they would delegate, and the nurses would respond that they didn't have to and they weren't going to because their license would be at stake. *{Tape : 2; Side : B; Approx. Time Counter : 9.5 - 30}*

Rep. Noennig said he was looking at the language of the bill, and it was difficult to understand what was contemplated by this procedure being authorized and the training involved. Lines 6 through 8 seem to say that the purpose of this is that the chapter on nursing doesn't cover the provision of these kinds of nutrients and medications by the parent and so forth who is authorized and trained by the individual receiving the nutrition. Unless he is misreading that, it doesn't make any sense to him that the person

is going to be trained by the person receiving the nutrition because if they have disabilities they wouldn't be able to do the training. **Mr. Melton** said he thought Rep. Noennig was reading it correctly and it could probably be resolved by saying receiving instruction from the person receiving the nutrition, who may be capable of providing that instruction, or from the parent or guardian of that child. **Rep. Noennig** said there is nothing in the statute that indicates that anybody doing the training ever had any experience knowing how to do it in the first place, and that bothers him. **Mr. Melton** said he had always heard that the parents deal with this on a day to day basis with their child and they're well versed in the details surrounding how to do it right and are more than capable of providing the instruction to a lay person in how to get this done.

Rep. Noennig asked **Vickie Badgley** why people are not being delegated by nurses to perform this function. **Ms. Badgley** said nurses were afraid of the liability. **Rep. Noennig** asked if she agreed that the rule hasn't worked out and there hasn't been an availability of someone other than nurses to provide this service. **Ms. Badgley** said the nurses can delegate this and they can train someone, but it isn't just a haphazard thing. **Rep. Noennig** asked if any nurses are training and delegating people to do this. She said she is sure there are nurses who have delegated this, but it's an individual training.

Rep. Raser said her daughter has a tracheostomy and she was trained by a nurse to do the suctioning, which Dr. Guggenheim had said was a more complex procedure than the feedings. She asked **Ms. Badgley** if she was breaking the law by training her sister to do the suctioning. **Ms. Badgley** said that is not covered under delegation. **Rep. Raser** said her understanding was that it was included because it involved a tube. **Ms. Badgley** said she didn't think the rule was as precise as it should be, but as she reads the rule, she thinks a nurse should be the one teaching and delegating.

Rep. Facey asked the sponsor if school personnel had to accept the authorization from the parents if they didn't want to. **Rep. Lawson** referred the question to **Jeff Weldon, chief legal counsel for the Office of Public Instruction**. **Mr. Weldon** said it was his opinion that this bill had no effect on the authority currently conveyed by law to a board of trustees to govern school districts. Current law requires them, if it's advisable, to hire a physician or school nurse. If the trustees want to continue the policy that this sort of feeding must be done while the child is in school by the school nurse, then the trustees have the authority to do that. This bill only changes within the context of the defining of nursing law what is nursing practice. It doesn't affect the way trustees manage school districts. **Rep. Facey** asked about a rural district with no

nurse that might ask other school employees to do this, and they might be uncomfortable doing it. **Mr. Weldon** said he didn't believe the bill would give authority to a parent to direct the board of trustees how to handle this, as the trustees have the authority.

Rep. Noennig said he is trying to understand why the regulation that was passed doesn't work, and he asked **Ms. Smith** if she had attempted to get a nurse to delegate the authority to her to do the feeding tube. **Ms. Smith** said last summer when her son was going into a summer day program, the program did not have a nurse. She and the program's director tried to find a nurse to delegate the task, and talked with school nurses, home health nurses and even out-of-town nurses, but could find no nurses who were willing to delegate.

Rep. Fuchs said he is trying to determine if the liability issue is legitimate, and asked **Ms. Smith** what's the occurrence of a problem that they would have this significant fear of delegating. **Ms. Smith** said under current law they put their license on the line because of the liability. This bill would give the liability back to the parents and guardians. **Rep. Fuchs** asked **Ms. Erickson** why nurses would oppose this if they don't want to delegate. She said after the rule had been made, families came back and asked for more changes, but the board wanted to give the rule more time to see if it would work. Nurses aren't used to delegating. **{Tape : 3; Side : A; Approx. Time Counter : 0 - 10}**

Closing by Sponsor:

Rep. Lawson thanked the committee and the witnesses for a great hearing. Highlights included rights and responsibilities of the individuals and the parents; enhancing the quality of life for individuals and families; family members won't jeopardize those individuals, they are dependable and trustworthy; modern technology is allowing individuals to survive and live longer, therefore the g and the j-tubes; it's scary, safe and simple; access to nurses may be limited; if a family wants to continue using nurses, they can do so as this is an arrangement between agreeing participants and doesn't force anybody to do anything; freedom of choice; confidentiality; privacy. **Rep. Lawson** said he opposes the amendments offered by the MEA/MFT and thinks they are unnecessary. He has faith in parents and others in their working relationship with the medical community prior to and during g and j-tube feeding. No one is more interested in safety than the folks involved. The families are interested in providing the best possible care. A lot of time and effort went into crafting the language of this bill, and he feels comfortable with it. He asked the committee for a do pass on the bill. **{Tape : 3; Side : A; Approx. Time Counter : 10 - 13.2}**

ADJOURNMENT

Adjournment: 6:20 P.M.

REP. BILL THOMAS, Chairman

PATI O'REILLY, Secretary

BT/PO/JB

Jan Brown transcribed these minutes.

EXHIBIT (huh37aad)